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Via Email

October 16, 2023

Planning and Land Use Management Committee
City of Los Angeles
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Councilmember Monica Rodriguez
Councilmember Katy Yaroslavsky
Councilmember John S. Lee
Councilmember Heather Hutt
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**Re: Comment on Sustainable Communities Environmental Assessment
Exception on the 8141 Van Nuys Boulevard Project**

Dear Chair Harris-Dawson and Honorable Councilmembers of the PLUM Committee,

I am writing on behalf of **Supporters Alliance for Environmental Responsibility (“SAFER”)**, and its members who live, work, and recreate in and around the City of Los Angeles. SAFER’s comment is with regard to the Sustainable Communities Environmental Assessment (“SCEA”) prepared for the project known as 8141 Van Nuys Boulevard Project (ENV-2020-4228-SCEA; DIR-2020-4227-CDO-SPR-HCA), including all actions referring or related to the construction of a 7-story mixed-use building, including 200 residential units and approximately 2,060 square feet of ground floor commercial, located at the southeast corner of 8141, 8155, and 8159 N. Van Nuys Boulevard and 14528 and 14550 W. Titus Street in the City of Los Angeles (“Project”). After reviewing the SCEA, SAFER requests that the City of Los Angeles (“City”) refrain from taking any action on the Project and SCEA at this time because the SCEA fails to incorporate all feasible mitigation measures from a prior environmental impact report (“EIR”).

SAFER previously submitted comments on April 3, 2023 which were supported by the expert comments of consulting firm Baseline Environmental Consulting (“Baseline”), and which argued that the SCEA (1) failed to adequately analyze the Project’s health risks (2) failed to adequately evaluate the Project’s consistency with the current 2022 Scoping Plan and

October 16, 2023

Comment on Sustainable Communities Environmental Assessment

8141 Van Nuys Project (ENV-2020-4228-SCEA; DIR-2020-4227-CDO-SPR-HCA)

Page 2 of 7

California's long-term climate goal of carbon neutrality by 2045, and (3) inadequately mitigated the Project's noise impacts. SAFER incorporates those comments herein in their entirety.

LEGAL BACKGROUND

I. Sustainable Communities Environmental Assessment under SB 375.

CEQA allows for the streamlining of environmental review for “transit priority projects” meeting certain criteria. (Pub. Res. Code (“PRC”) §§ 21155, 21155.1, 21155.2.) To qualify as a transit priority project, a project must

- (1) contain at least 50 percent residential use, based on total building square footage and, if the project contains between 26 percent and 50 percent nonresidential uses, a floor area ratio of not less than 0.75;
- (2) provide a minimum net density of at least 20 dwelling units per acre; and
- (3) be within one-half mile of a major transit stop or high-quality transit corridor included in a regional transportation plan.

(PRC § 21155(b).)

A transit priority project is eligible for CEQA’s streamlining provisions where,

[The transit priority project] is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy, for which the State Air Resources Board . . . has accepted a metropolitan planning organization’s determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

(PRC § 21155(a).)

In 2020, SCAG’s Regional Council formally adopted the Connect SoCal 2020–2045 Regional Transportation Plan/Sustainable Communities Strategy (“2020 RTP/SCS”), which was accepted by CARB on October 30, 2020.

If “all feasible mitigation measures, performance standards, or criteria set forth in the prior applicable environmental impact reports and adopted in findings made pursuant to Section 21081” are applied to a transit priority project, the project is eligible to conduct environmental review using a SCEA. (PRC § 21155.2.) A SCEA must contain an initial study which “identif[ies] all significant or potentially significant impacts of the transit priority project . . . based on substantial evidence in light of the whole record.” (PRC § 21155.2(b)(1).) The initial study must also “identify any cumulative effects that have been adequately addressed and mitigated pursuant to the requirements of this division in prior applicable certified environmental

October 16, 2023

Comment on Sustainable Communities Environmental Assessment

8141 Van Nuys Project (ENV-2020-4228-SCEA; DIR-2020-4227-CDO-SPR-HCA)

Page 3 of 7

impact reports.” *Id.* The SCEA must then “contain measures that either avoid or mitigate to a level of insignificance all potentially significant or significant effects of the project required to be identified in the initial study.” (PRC §21155(b)(2).)

After circulating the SCEA for public review and considering all comments, a lead agency may approve the SCEA with findings that all potentially significant impacts have been identified and mitigated to a less-than-significant level. (PRC § 21155(b)(3), (b)(4), (b)(5).) A lead agency’s approval of a SCEA must be supported by substantial evidence. (PRC § 21155(b)(7).)

DISCUSSION

I. Substantial Evidence Shows that the Project Will Likely Have Significantly Adverse Indoor Air Quality and Health Impacts.

Certified Industrial Hygienist, Francis “Bud” Offermann, PE, CIH, has reviewed the SCEA and all relevant documents regarding the Project’s indoor air emissions. Based on this review, Mr. Offermann concludes that the Project will likely expose future residents living at the Project to significant impacts related to indoor air quality, and in particular, emissions of the cancer-causing chemical formaldehyde. Mr. Offermann is one of the world’s leading experts on indoor air quality, particularly focusing on formaldehyde emissions, and has published extensively on the topic. Mr. Offermann found that the SCEA failed to address and mitigate the human health impacts from indoor emissions of formaldehyde, which is a public health concern. Mr. Offerman’s expert reviews and CV are attached as Exhibit A.

a. Future Residents of the Project Will Face Elevated Cancer Risks from Indoor Formaldehyde Emissions.

Formaldehyde is a known human carcinogen and is listed by the State of California as a Toxic Air Contaminant (“TAC”). The South Coast Air Quality Management District (“SCAQMD”), the agency responsible for regulating air quality within the South Coast Air Basin—which includes the City of Los Angeles—has established a cancer risk significance threshold from human exposure to carcinogenic TACs of 10 per million. (Ex. A, p. 2.). Here, Project’s emissions of formaldehyde to air will result in very significant cancer risks to future residents of the Project.

Mr. Offermann states that future residents of the Project would be exposed to a 120 in one million risk, even assuming all materials are compliant with the California Air Resources Board’s formaldehyde airborne toxics control measure. (Ex. A, p. 3). This potential exposure level exceeds the South Coast Air Quality Management District’s (“SCAQMD”) CEQA significance threshold for airborne cancer risk by 12 times the amount.

The California Supreme Court has emphasized the importance of air district significance thresholds in providing substantial evidence of a significant adverse environmental impact under CEQA. (*Communities for a Better Environment v. South Coast Air Quality Management Dist.*

October 16, 2023

Comment on Sustainable Communities Environmental Assessment

8141 Van Nuys Project (ENV-2020-4228-SCEA; DIR-2020-4227-CDO-SPR-HCA)

Page 4 of 7

(2010) 48 Cal.4th 310, 327 (“As the (South Coast Air Quality Management) District’s established significance threshold for NO_x is 55 pounds per day, these estimates (of NO_x emissions of 201 to 456 pounds per day) constitute substantial evidence supporting a fair argument for a significant adverse impact.”) Since expert evidence demonstrates that the Project will exceed the SCAQMD’s CEQA significance threshold, there is substantial evidence that an “unstudied, potentially significant environmental effect[]” exists. (See, *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.5th 937, 958.)

Mr. Offermann’s observations constitute substantial evidence that the Project will produce potentially significant air quality and health impacts which the SCEA has failed to address. Therefore, the City must prepare and recirculate an updated SCEA to fully evaluate and mitigate these impacts on the Project’s future residents.

b. The SCEA fails to discuss and mitigate the Project’s significant indoor air quality impacts.

The SCEA fails to discuss, disclose, analyze, and mitigate the significant health risks posed by the Project from formaldehyde, a toxic air contaminant (“TAC”). As discussed below and set forth in Mr. Offermann’s comments, the Project’s emissions of formaldehyde to air will result in very significant cancer risks to future residents of the Project’s residential component and employees in the Project’s commercial components. Mr. Offermann’s expert opinion demonstrates the Project’s significant health risk impacts, which the City has a duty to investigate, disclose, and mitigate in the SCEA prior to approval.

Mr. Offermann explains that many composite wood products used in building materials and furnishings commonly found in offices, warehouses, residences, and hotels contain formaldehyde-based glues which off-gas formaldehyde over a very long period. He states, “[t]he primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particleboard. These materials are commonly used in building construction for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims.” (*Id.*, pp. 2-3) To reiterate, Mr. Offermann therefore concludes that future residents of the Project would be exposed to a level of formaldehyde that exceeds the significance threshold under SCAQMD. Mr. Offermann proposes feasible mitigation measures to reduce the Project’s indoor air quality impacts. However, since the SCEA does not analyze this impact at all, none of these or other mitigation measures have been considered.

In its response to SAFER’s comments, CAJA Environmental Services, LLC (“CAJA”) justifies their decision not prepare a construction HRA by explaining how “[t]he Project would not produce emissions that exceed the SCAQMD’s recommended localized standards of significance for NO₂, CO, PM10 and/or PM2.5. Thus, the analysis correctly concluded that construction impacts to the localized air quality would be less than significant.” (June 2023 Response to Comments, p. 16.) However, as Baseline had clearly expressed in their April 2023 comment, CAJA improperly utilizes localized significance thresholds (“LST”) since they were not designed for this purpose and cannot be relied upon when reaching this conclusion about

October 16, 2023

Comment on Sustainable Communities Environmental Assessment

8141 Van Nuys Project (ENV-2020-4228-SCEA; DIR-2020-4227-CDO-SPR-HCA)

Page 5 of 7

whether an HRA is required. Such reliance is clearly improper and making this health-based determination on the Project is insufficient.

The City has a duty to investigate issues relating to a project's potential environmental impacts, especially those issues raised by an expert's comments. (See *Cty. Sanitation Dist. No. 2 v. Cty. of Kern*, (2005) 127 Cal.App.4th 1544, 1597–98 (“under CEQA, the lead agency bears a burden to investigate potential environmental impacts”).) CEQA expressly includes a project's effects on human beings as an effect on the environment that must be addressed in an environmental review. “Section 21083(b)(3)’s express language, for example, requires a finding of a ‘significant effect on the environment’ (§ 21083(b)) whenever the ‘environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.’” *California Bldg Indus. Ass’n v. Bay Area Air Quality Mgmt. Dist.*, (2015) 62 Cal.4th 369, 384 (“CBIA”). Likewise, “the Legislature has made clear—in declarations accompanying CEQA’s enactment—that public health and safety are of great importance in the statutory scheme.” (*Id.*, citing e.g., §§ 21000, subds. (b), (c), (d), (g), 21001, subds. (b), (d).) It goes without saying that the future residents and employees of the Project are human beings, and the health and safety of those workers is as important to CEQA’s safeguards as that of nearby residents currently living near the project site.

The proposed buildings will have significant impacts on air quality and public health risks by emitting cancer-causing levels of formaldehyde into the air that will expose future residents and employees to cancer risks potentially in excess of SCAQMD’s threshold of significance for cancer health risks of 10 in a million. Currently, outside of Mr. Offermann’s comments, the City does not have any idea what risks will be posed by formaldehyde emissions from the Project or the residences because it failed to consider them. However, the SCEA recognizes the Project site as falling within “one of the most pollution-burdened tracts in the state” given its location within the CalEnviroScreen toolkit. (SCEA, p. 5-22.) As a result, the City must include an analysis and discussion in an updated SCEA which discloses and analyzes the health risks that the Project’s formaldehyde emissions, including any other health hazards associated with an environmentally burdened community, may have on residents and employees and identifies mitigation measures appropriate for implementation.

c. The SCEA fails to analyze the Project’s significant outdoor air quality impacts.

Given the Project site’s location, the SCEA fails to adequately review and analyze the additional impacts of motor vehicle traffic and the subsequent increase in exposure to particulate matter (“PM2.5”). As the SCEA notes and Mr. Offermann highlights, the Project site is within the South Coast Air Basin, a state and federal non-attainment area for PM2.5, and in an area with moderate to high traffic. (*Id.*, p. 2) “Additionally, the SCAQMD’s Multiple Air Toxics Exposure Study (MATES V) study cites an existing cancer risk of 294 per million at the Project site due to the site’s high concentration of ambient air contaminants resulting from the area’s high levels of motor vehicle traffic. (*Id.*, p. 4)

Mr. Offermann predicts that the projected traffic noise levels, the annual average PM.25 concentrations will exceed both state and federal standards, thereby necessitating installation of technology to reduce the impacts to a less-than-significant level. However, the SCEA fails to analyze these issues, as well as the cumulative impacts associated with the Project's emissions. As such, the City should not proceed with any Project approvals and to instead prepare and recirculate an updated SCEA that adequately analyzes and addresses these impacts.

II. The SCEA is not adequate under CEQA because the Project is inconsistent with applicable policies from the 2020-2045 RTP/SCS.

CEQA makes clear that a transit priority project is only eligible for streamlining pursuant to a SCEA when the project is “consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy.” (PRC § 21155(a).) As applied here, the applicable sustainable communities strategy here is the 2020-2045 Regional Transportation Plan/Sustainable Communities Strategy prepared by SCAG Connect SoCal (“2020 RTP/SCS”).

Reiterating Baseline’s findings from its April 3, 2023 comment letter, SAFER finds that the SCEA’s analysis of health risks was incomplete, and that the SCEA failed to adequately analyze the Project’s contribution to the state’s long-term goal of carbon neutrality by 2045. Subsequent analysis performed by Mr. Offermann reveals that the Project would expose residents and future employees to formaldehyde. Based on these findings, the SCEA is inconsistent with several goals and guiding principles from the 2020 RTP/SCS, including the following:

- **Goal 5:** Reduce greenhouse gas emissions and improve air quality;
- **Goal 6:** Support healthy and equitable communities;
- **Guiding Principle 5:** Encourage transportation investments that will result in improved air quality and public health, and reduced greenhouse gas emissions
- **Guiding Principle 7:** Regionally, transportation investments should reflect best-known science regarding climate change vulnerability, in order to design for long-term resilience

Additionally, the SCEA’s failure to adequately assess public health risks and contributions to carbon neutrality renders it inconsistent with the following strategies from the 2020 RTP/SCS:

- **Leverage Technology Innovations:** Promote low emission technologies such as neighborhood electric vehicles, shared rides hailing, car sharing, bike sharing and scooters by providing supportive and safe infrastructure such as dedicated lanes, charging and parking/drop-off space (SCEA, p. 3-13);
- **Support Implementation of Sustainability Policies:** Continue to support long range planning efforts by local jurisdictions (SCEA, p. 3-14);
- **Promote a Green Region:** Support development of local climate adaptation and hazard mitigation plans, as well as project implementation that improves community resiliency

October 16, 2023

Comment on Sustainable Communities Environmental Assessment

8141 Van Nuys Project (ENV-2020-4228-SCEA; DIR-2020-4227-CDO-SPR-HCA)

Page 7 of 7

to climate change and natural hazards (SCEA, p. 3-15);

- **Promote a Green Region:** Support local policies for renewable energy production, reduction of urban heat islands and carbon sequestration (*Id.*); and
- **Promote a Green Region:** Promote more resource efficient development focused on conservation, recycling and reclamation (*Id.*).

As discussed in Baseline's comment letter (Exhibit A to SAFER's April 3 comment letter), the SCEA should conduct further analysis of the Project's health risk impacts through a Health Risk Assessment and evaluate the effectiveness of implementing exhaust control measures such as the use of Tier 4 equipment.

Additionally, the SCEA should consider whether the Project can be designed to be carbon neutral by 2045, consistent with the state's long-term climate goal. This could include measures such as the use of all-electric buildings and the installation of additional EV charging infrastructure. Without this further analysis, the SCEA fails to meet the stringent requirements for streamlining environmental review, and the City should prepare an updated SCEA or an EIR for the Project.

CONCLUSION

For the foregoing reasons, the SCEA for the Project should be revised or an EIR prepared prior to any further action on the Project by the City. Thank you for considering these comments.

Sincerely,



Marjan R. Abubo

LOZEAU DRURY LLP